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09/883,471	06/18/2001	Edgar N. Rudisill	SS3190USNA	1201

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E I DU PONT DE NEMOURS AND COMPANY
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WILMINGTON, DE 19805

EXAMINER

GUARRIELLO, JOHN J

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 04/22/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/883471

Applicant(s)

Bansal et al.

Examiner

John Guarriello

Group Art Unit

1771

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 2/6/2003, 2/10/2003.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-29 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-29 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 13, 16
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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DETAILED ACTION

15. The Examiner acknowledges papers # 12-16, the IDS, extension of time, the RCE, the amendment of 2/6/2003; and the IDS of 2/10/2003.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lickfield et al. 5,484,645 in view of Tabor et al. 5,372,885.

Lickfield describes spunbonded non-woven fabric and a layer of meltblown fiber, (see abstract). Lickfield describes continuous multiple component filaments, (see abstract), which continuous filaments of the spunbonded webs have a bicomponent polymeric structure, sheath/core, wherein the sheath is polyethylene and the core is polyester, (column 3, lines

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35-40). Lickfield describes a polyester core and a polyethylene sheath on at least a portion of the peripheral surface, (see abstract). Lickfield describes that fabrics can be sterilized by gamma radiation, (column 1, lines 55-56). Lickfield describes the polyester can be PET, polyethylene terephthalate, (column 4, line 66). Lickfield describes the meltblown fiber can be LLDPE and can be microfibers and can be microporous, (column 5, lines 33-37, 66-68). Lickfield describes the microporous layer may be a film, (column 5, lines 34-35). Lickfield describes a basis weight in the range of 40-120 g/square meter, (column 10, line 14). Lickfield describes the diameter of the microfibers in the range of about 10-50 microns, (column 5, lines 40-43). Lickfield differs from the claimed invention because it is silent about the polyethylene blend of LLDPE and HDPE >50%.

Tabor describes bicomponent fiber of PET core and polyolefin sheath, (see abstract). Tabor describes the sheath can be a blend of HDPE and LLDPE, (Column 5, lines 1-2). Tabor describes the blend can have 0.5-99.5% of grafted PE, polyethylene, (which is HDPE), (column 6, lines 56-58).

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Tabor describes LLDPE which contains a minor amount of C3-C12 alkene, (column 7, lines 1-10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the spunbonded non-woven fabric material of Lickfield with the bicomponent fibers of the blend of LLDPE with the HDPE sheath component of Tabor motivated with the expectation that there would be an improvement in the barrier properties of the non-woven fabric material of Lickfield for use as medical garments with less brittleness when exposed to gamma radiation, and inexpensive in cost with the sheath blend of Tabor. Given the prior art of record describes the core and sheath with properties and amounts of components of the polyethylene blend, it would be obvious to one of ordinary skill in the microfiber art to optimize the values of polyethylene and polyester for claims 8, 9 and 24 and 25.

Applicant's arguments regarding polyethylene have been considered but they are not persuasive because Lickfield describes the structure and chemistry of the core polyester, and the sheath component of polyethylene.

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Since Lickfield specifies the genus, one must assume the teaching is applicable to all species, otherwise the patent would need a qualifying statement, that is, the reference implies all polyethylenes are suitable (column 3, lines 35-40). Lickfield describes the polyethylene can be present in the blend in an amount of about 1-20 wt. %, (column 5, lines 25-27). Tabor describes blends of LLDPE with HDPE, (Column 7, lines 1-10), are useful in various fabrics. Since Lickfield only generally recites polyethylene, then one of ordinary skill in the art is led to believe that all polyethylenes are radiation stabilizable, absent clear evidence to the contrary.

Applicant's arguments regarding claim 15 have been considered but Lickfield describes non-woven microporous layer or layers, (column 3, lines 11-12). Lickfield describes this layer can be a film as stated above, (column 5, lines 34-35).

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone

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number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris , can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



John J. Guarriello:gj

Patent Examiner

April 13, 2003



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700